IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 54946-M of 2006

DATE OF DECISION : 11.09.2006

Garja Singh

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Navkiran Singh, Advocate,
for the petitioner.

* * *

Petitioner Garja Singh (accused) has filed this petition under Section 482 of the Code of Criminal Procedure for quashing the charge sheet filed against him in case FIR No. 30 dated 11.7.2005 under Sections 302, 201, 120-B/34 IPC, registered at Police Station Sohana, as well as the order dated 24.7.2006, passed by Additional Sessions Judge, Ropar, whereby application filed by the petitioner for his discharge has been dismissed.

2. The petitioner in this case was posted as MHC at Police Station Sohana, District Ropar. The aforesaid FIR was registered against him and his other colleagues on the allegation that they conspired together and caused death of one Balwinder Singh son of Darshan Singh, during the course of interrogation, when he was on police remand in case FIR No. 28 dated 22.7.1993 under Section 379 IPC, registered at Police Station Sohana. The petitioner filed an application for his discharge on the ground that before submitting the challan against him, no sanction as envisaged under Section 197 Cr.P.C. was obtained, as the alleged act of the petitioner was in discharge of his official duty. The trial court, after taking into consideration the decision of the Supreme Court in ***State of Himachal Pradesh*** v. ***M.P. Gupta,*** 2004 (1) RCR (Criminal) 197, dismissed the said application while

observing that the act of causing the death of a person during the course of interrogation cannot be said to have a reasonable connection with the discharge of the official duties.

3. I have heard counsel for the petitioner and perused the contents of the FIR as well as the order dated 24.7.2006, passed by the trial court.

4. Counsel for the petitioner, while referring to the judgments of the Supreme Court in ***Rakesh Kumar Mishra*** v. ***State of Bihar and others,*** 2006 (1) RCR (Criminal) 456 and ***Sankaran Moitra*** v. ***Sadhna Das & Anr.*** 2006 (2) Criminal Court Cases 768, submits that if a person merely dies while in police custody on police remand at the time of interrogation, it cannot be said that he died due to interrogation or beating, therefore, the alleged act of the petitioner is part of his official duty. In that situation, obtaining the prior sanction under Section 197 Cr.P.C. is mandatory.

5. I do not find any substance in the submission made by counsel for the petitioner. Undisputedly, in this case, death of Balwinder Singh took place when he was on police remand. It is also admitted that he died during the interrogation by the police. It is case of the prosecution that beatings were given to the deceased. In my opinion, causing beating, torture or using third degree method at the time of interrogation resulting into death of an accused, cannot be said to be part of official duty. Such an act also cannot be said to be an act done in discharge of official duty. In my opinion, the trial court has rightly come to the conclusion that in the instant case, no sanction under Section 197 Cr.P.C. is required. The judgments cited by counsel for the petitioner are not applicable to the facts and circumstances of the case.

6. Dismissed.

September 11, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**